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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/612,543	07/07/2000	Makoto Funabashi	1982-0153P	9387

7590

06/04/2002

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EXAMINER

CLEVELAND, MICHAEL B

ART UNIT

PAPER NUMBER

1762

DATE MAILED: 06/04/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/612,543

Applicant(s)

FUNABASHI, MAKOTO

Examiner

Michael Cleveland

Art Unit

1762

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 20 May 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☒ Applicant's reply has overcome the following rejection(s): The rejections of claims 6 and 18 under 35 USC 112.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 1-20.

Claim(s) withdrawn from consideration: _____

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

DETAILED ACTION

1. Applicant's proposed amendments would resolve the rejections of claims 6 and 18 under 35 USC 112, and would therefore be entered upon the filing of an Appeal Brief. However, the claims would remain rejected under 35 USC 103 for the reasons given in the Final Rejection.

Response to Arguments

2. Applicant's arguments filed 5/20/2002 have been fully considered but they are not persuasive.

Applicant's arguments regarding drying because of the terms "a slurry" and "the slurry" are noted, but are unconvincing. The argument is unconvincing regarding claim 14 because the claim does not prohibit the substitution process from involving drying. Thus, the argument is also unconvincing for claims 1 and 20 because they are broader than claim 14. Further, in the case of claims 1 and 20, the arguments are not convincing at least for the reasons outlined in the final rejection:

[R]egarding claims 1 and 20, because '578 teaches that the classification dispersion medium may be methyl ethyl ketone (MEK) (col. 4, lines 13-25 and 38-44) and that the coating slurry solvent may also be MEK (col. 12, lines 48-57), it would have been obvious to one of ordinary skill in the art at the time the invention was made to have added the binder directly to the classification product in order to have eliminated the unnecessary steps of drying and resupplying solvent.

Applicant argues that unexpected results are achieved by avoiding drying of the classified phosphors, as demonstrated by Example 1 and the Comparative Example. Even if the claims were amended to explicitly exclude drying, the argument would still not have been convincing because the showing of unexpected results is not commensurate in scope with the claims. The claims are not limited as to the phosphor composition, calcining conditions, solvent concentrations, classified mesh size, and the details of steps 4-7 (pp. 29-32), which were used to obtain the results. Further, they do not contain the solvent substitution step claimed by claim 14. If it is Applicant's position that Example 2 represents unexpected results for claim 14, the argument is unconvincing for the above reasons and further because the details of the solvent substitution step of Example 2 are not claimed.

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Cleveland whose telephone number is (703) 308-2331. The examiner can normally be reached on 9-5:30 M-F.

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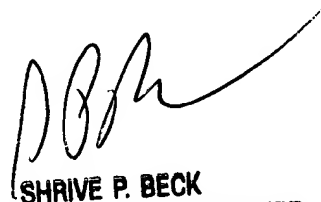
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shrive Beck can be reached on (703) 308-2333. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 306-3186 for regular communications and (703) 306-3186 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



MBC

May 29, 2002



SHRIVE P. BECK
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700